IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

NOTICE OF MOTION NO.585 OF 2007
IN
SUIT NO.3563 OF 1986

Phoenix Mills Ltd ...Plaintiffs

Versus

The Cotton Corpn of India Ltd & Anr. ...Defendants

Shri Jayprakash Dhanuka for the Plaintiffs-Applicant in support of Notice of Motion.

Shri U.J.Mahajan i/by Divekar & Co for the Defendant No.1.

CORAM : ABHAY S.OKA, J.
DATED : AUGUST 09, 2007.

P.C.:

1. Heard learned counsel appearing for the Defendants in support of Notice of Motion. The learned counsel appearing for the Defendants in support of the Notice of Motion has invited my attention to various averments made in affidavit in support of Notice of Motion and in particular in paragraph Nos.4 to 6 thereof. The Notice of Motion is opposed by the learned counsel appearing for the Plaintiffs by relying upon various contentions raised in the affidavit in reply.

2. In paragraph No.6 of the affidavit in support it is stated that the written statement of the first Defendant was declared in February 1992 and a copy

thereof was sent to the then Advocate on record for the Plaintiffs in February 1992 alongwith the consent praecipe. A true xerox copy of letter dated 19th February, 1992 sent by the Advocate for the first Defendant to the Advocate for Plaintiffs has been annexed to the affidavit in support. The letter dated 19th February, 1992 was duly received by the then Advocate on record for the Plaintiffs. In the affidavit in reply filed by the Plaintiffs this fact is not specifically denied.

3. Hence, a case is made out for condonation of delay in filing written statement.

4. Hence, notice of motion is made absolute in terms of prayer clause (a). Written statement to be accepted if filed within a period of three weeks from today. Place the suit for issues on 10th September, 2007. Parties will file draft issues on the next date.

JUDGE